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No. 467

In the Supreme Court of the United States

OCTOBER TERM, 1962

JAMES ALVADO AND FRANCIS M. BILBEE,
Petitioners

v.

GENERAL MOTORS CORPORATION
Respondent

REPLY MEMORANDUM IN SUPPORT OF PETITION

One point in respondent's brief requires correction. This is respondent's attempt (Brief in Opposition, p. 8) to indicate that employees laid off or on leave were also injured in the same way as veterans by the percentage-of-earnings device.

Petitioners reviewed in detail the evidence on this point in their brief in the Court of Appeals, and showed conclusively that those on layoff and on leave of absence were *not* injured by the device. GM then abandoned this contention without a single mention of it in the Court of Appeals, and it is hardly proper to seek to revive it here. It will be noted that the corporation even now avoids stating that any of those on leave or layoff were in fact damaged by the device. Both the majority and the dissent in the Court of Appeals of course disregarded this contention completely, and properly so.

Respondent offers this wholly inaccurate suggestion in order to make it seem as if petitioners claim the trial court's findings of fact were "clearly erroneous." This is not the case. There is no dispute over what the evidence is, nor over what that evidence shows; indeed, all the evidence is

admitted by both sides. The only dispute here is that dealt with and determined by both the majority and dissenting opinions below, namely, whether illegal discrimination against veterans exists where the undisputed evidence shows conclusively that respondent knew and intended to impose severe financial losses on veterans, and on them alone, for its own great financial benefit, or whether in addition the evidence must show that respondent had a subjective mental state of hostility toward veterans.

So that the Court may, if it thinks necessary, verify the foregoing statements, a copy of each side's brief in the Court of Appeals is filed with the Clerk. (This point is covered at pp. 23-29, 57, of the veterans' brief in the Court of Appeals; it is not mentioned in the corporation's brief.)

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